IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9797 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAVINKUMAR HARINARAIN UPADHYAY

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9797 of 1999

MR BP GUPTA for Petitioner No. 1

Ms. Archana Raval, AGP for Respondent No. 1-3

MR HD VASAVADA for Respondent No. 2

RULE SERVED for Respondent No. 4

RULE SERVED BY DS for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 29/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Gupta for the petitioner; Ms. Raval, learned AGP for respondents NO.1,3,4 and 5 and Mr. Vasavada, learned advocate for respondent no. 2. The grievance raised by the petitioner in this petition is to the effect that inspite of various representations made to the respondents, till the date, no retirement benefits have been paid to the petitioner to which the petitioner is otherwise entitled.

I have considered the submissions made by the learned advocates for the parties. The petitioner has retired on 31st May, 1997 and till this date, the petitioner has not been paid the retirement benefits by the respondents. The respondent Nagarpalika has given answer to the petitioner to the effect that the petitioner is not entitled for such benefits and, therefore, there is no need to prepare the pension papers and to forward the same to the office of the pension and provident fund. It was submitted by the learned advocate Mr. Gupta that recently on 6.4.2002, the Government of Gujarat has, in its Education Department, issued the Resolution relating to the implementation of the pension scheme for the teaching staff (teachers/principals) of the private recognized primary schools getting grant in aid and as per the said GR, employees of such schools are entitled for pensionary benefits with effect from 1.1.1993, if they have retired after 1.1.1997, meaning thereby, if any teacher or principal has served upto 1.1.1997 and has retired after that, then, he is entitled for the benefits of the said GR. He also submitted that since the petitioner has retired after 1.1.1997 i.e. on 31st May, 1997, the petitioner is also entitled for the benefits flowing from the said GR dated 6.4.2002. He, therefore, submitted that some directions may be issued to the respondents to consider the case of the petitioner for the benefits as per the said GR dated 6.4.2002.

In view of these facts, it is directed to the respondents to consider the case of the petitioner for pensionary benefits and other retirement benefits as per the aforesaid GR dated 6th April, 2002 issued by Government of Gujarat has, in its Education Department and to examine and consider the grievance of the petitioner and to pass appropriate order in accordance with law within two months from the date of receipt of copy of this order. Petitioner is directed to send copy of the said GR dated 6.4.2002 to all the respondents within one week from the date of receipt of copy of this order.

With these observations and directions, this petition is disposed of with a liberty in favour of the petitioner to challenge the orders that may be made by the respondents before the appropriate forum in accordance with law if such orders are adverse to the petitioner. Rule is discharged. There shall be no order as to costs.

Dt.29.9.2003. (H.K. Rathod,J.)

Vyas